

Ohio Housing Finance Agency
Proposed New Rule Chapter 175-12 Single-Family Housing Tax
Credit

Outline of Rules

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175-12-01 Definitions

As used in this chapter:

- (A) “Affordable” means a single-family dwelling with a monthly mortgage payment (including residential real estate taxes and insurance and, if applicable, condominium fees) that is no more than thirty percent of the qualified buyer’s monthly income.
- (B) “Blighted” means a structure that is dilapidated, unsanitary, unsafe, or vermin infested and that because of its condition has been designated by an agency that is responsible for the enforcement of housing, building, or fire codes as unfit for human habitation, or acquired by a land bank.
- (C) “Completion” means issuance of final cost certification and all available home sale summaries.
- (D) “Construction completion” means the issuance of final certificates of occupancy all units of single-family dwelling in a qualified project.

- (E) “Credit certificate” means eligibility certificate issued by the director to a project development owner under division (D) of section 175.17 of the Revised Code.
- (F) "Designated reporter" means the project development owner or one of the owner's direct or indirect partners, members, or shareholders, as selected by the owner under division (B) of section 175.17 of the Revised Code.
- (G) “Development costs” means actual costs for marketing, appraisal, closing, administration, land, site development, hard construction costs, soft construction costs, and developer fee (if any) if at or under the limits imposed by this plan. Such costs are reduced by any shortage between the amount of single-family tax credit to which the qualified project is eligible and the amount of equity generated by sale of single-family tax credit.
- (H) “Development team” means a consortium or partnership of entities formed by the project development owner to develop a qualified project. The team must include: (1) if development services are not being managed directly by the project development owner, a housing developer, (2) building contractor, (3) third-party appraiser, (4) if not provided by the project development owner, a housing counseling agency, (5) construction lender, and (6) if applicable, a project architect.
- (I) "Director" means the executive director of the Ohio housing finance agency.
- (J) “Eligible home buyer” means (1)) qualified military veterans who have received an honorable discharge from the U.S. military, even if they have previously owned a home or (2) displaced homemakers as such term is defined in 42 U.S.C. § 12713(b)(1).
- (K) “First time home buyer” means an occupant borrower who has not had an ownership interest in a principal residence at any time during the three-year period ending on the date the mortgage is recorded.

- (L) “Home sale summary” means the submission to Ohio housing finance agency by the project development owner or designated member of the Development Team within thirty days of the sale of each single-family dwelling to a qualified buyer, containing the following: (1) recorded deed, (2) recorded restrictive covenant made by the qualified buyer for the benefit of the Ohio housing finance agency and project development owner (3) a certificate of homeowner’s insurance in a form reasonably acceptable to OHFA, and (4) the qualified buyer’s recorded mortgage.
- (M) “Homebuyer education” means a certificate from a United States department of housing and urban development-approved counseling agency issued within the previous twelve months or participation in Ohio housing finance agency-streamlined homebuyer education.
- (N) “Homeowner gain” means the difference between the appraisal price of the home at completion and the initial or subsequent sale price of the home during the affordability period.
- (O) “Homeowner tax credit equity” means the difference between the sale price of a single-family dwelling at the time of initial sale to a qualified buyer minus the appraisal price.
- (P) “Minimum construction standards” means a single-family dwelling that contains two bedrooms and one and one half bathrooms.
- (Q) “Mortgage” means a fixed-interest residential mortgage, with insurance and property taxes escrowed, on a home in a qualified project.
- (R) “Project development owner” means a unit of government that owns a qualified project. Pursuant to division (C) of section 175.17 of the Revised Code, the project development owner shall maintain ownership of a qualified project and associated single-family dwellings until the dwellings are sold to qualified buyers. A project development owner shall be deemed to satisfy the ownership requirements for the purposes of the

statute when: (1) the project development owner has ownership interest in the project land or single-family dwelling; (2) an interest in the project development team structure, or (3) has contributed capital assets to the project.

- (S) “Qualified buyer” means an individual as the term is defined in division (G) of section 5701.01 of the Revised Code who (1) has a verified income up to one hundred and twenty percent of the area median income, (2) who has obtained a pre-approval letter from a permanent lender demonstrating that such individual is qualified for a mortgage, (3) has attended homebuyer education, (4) has a credit score of six hundred and forty and above, (5) intends to use the single-family dwelling as a primary residence for the entire affordability period, and (6) is a first time home buyer or eligible home buyer.

- (T) “Qualified project” means a minimum of five (1) single-family dwellings to be constructed, (2) blighted structures to be renovated for habitability, or (3) a mix of single-family dwelling to be constructed and blighted structures to be renovated for habitability.

- (U) “Rehabilitation” means substantial renovation to a building or buildings, that results in the reactivation of habitability of a blighted single family dwelling.

- (V) “Scattered site” means there are five or more sites which are not contiguous.

- (W) “Service” means to (1) ensure the single-family dwelling remains affordable throughout the affordability period and (2) submit annual certifications to Ohio housing finance agency demonstrating continued affordability and compliance with single-family tax credit requirements.

- (X) “Single-family dwelling” means (1) fully detached residential unit or (2) multi-unit owner occupied residential units (including duplexes, triplexes, fourplexes, row houses, townhouses, and multi-story condominiums), provided that any such dwelling is the primary residence of the qualified buyer and meets the

minimum construction standards. The structure must be placed and secured on a foundation.

- (Y) “Unit of government” means a county, township, municipal corporation, regional planning commission, community improvement corporation, economic development corporation, or county land reutilization corporation organized under Chapter 1724 of the Revised Code, or port authority.

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Statutory Authority: 175.05; 175.17
Rule Amplifies: 175.17

175-12-02 Application schedule and procedures

(A) Project development owners are responsible for submitting the application and serving as lead applicant, unless a designee for lead applicant is named. Project development owners may designate another member of the development team as the lead applicant by providing sufficient proof that the project development owner has approved such designee pursuant to the project development owner's official designation process or legislative body's resolution.

(B) During an application period, a project development owner or the designee may apply to the director on a form as approved and made available by the director. Specific application submission schedules shall be established by the director in the plan or program policies published before each application period.

(C) The project development owner or designee must submit an application that complies with the program policies as established by the director to be evaluated for a single-family tax credit. The application will require the project development owner or designee to submit the following information:

(1) The name and address of the project development owner's designated reporter;

(2) The name and address of all members of the project development team;

(3) A commercially reasonable estimate of the qualified project's development costs; and,

(4) Any other information the director may require through the program plan, policies, or application.

(D) The director shall review applications for completeness and may request that project development owner or designee provide missing or additional information following their application submission. A project development owner or designee may only submit missing information upon request from the director. If an application is incomplete and the

project development owner or designee does not submit the requested information within a timeframe established in the program plan or policies, the director shall notify the project development owner and designee in writing that the application has been rejected.

(E) A rejection issued by the director for a specific application period does not prohibit a project development owner from submitting an application in a future application period.

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175-12-03 Single family tax credit eligibility

(A) Only the project development owner or designee, as provided for in paragraph (A) of rule 175-12-02 the Administrative Code, may apply for a single-family tax credit for a qualified project.

(B) An application for a single-family state tax credit must include documentation that the qualified project consists of single-family dwelling(s).

(C) All rehabilitation project applications must meet applicable rehabilitation standards and include in the application a physical capital needs assessment and scope of work as provided for in the program plan and policies.

(D) To the extent project development owners are contributing capital or other assets to contribute to the affordability of a qualified project, evidence of such contribution must be provided at the time of application. Contributions of capital or other assets will be considered in the competitive criteria as set forth in the program plan and policies.

(E) (1) Each completed single-family dwellings shall be sold to a qualified buyer and include a restrictive covenant to the benefit of Ohio housing finance agency and the project development owner in a form as prescribed by the Ohio housing finance agency. Such restrictive covenant shall require the qualified buyer to remain in the single-family dwelling as their primary residence for the entire affordability period, as well as include provisions for the contingencies in the event of sale of the single-family dwelling, as prescribed in the plan.

(2) In the event of foreclosure, default, or homeowner abandonment, the project development owner shall make reasonable efforts to maintain affordability to the extent possible under law.

(F) The criteria to be used to determine whether an individual is a qualified buyer shall be defined in the program plan and the definitions contained in in this rule chapter.

(G) (1) Applications shall be reviewed by the following underwriting criteria to assess the risk associated with application:

- (a) Sum of estimated home sales, plus tax credit equity, and other construction financing must be sufficient to pay off the construction loan balance, after the final unit of a single-family dwelling is sold;
- (b) The development team must meet the minimum experience and capacity requirements contained in the plan;
- (c) The purchase price of the individual unit of single-family dwelling in the project cannot exceed the affordability for qualified homebuyers;
- (d) Financing sources must be submitted in the application and have sufficient commitment to meet the criteria as set forth in the plan;
- (e) The application must sufficiently demonstrate a market demand for the project;
- (f) A marketing plan that must meet the minimum requirements outlined in the plan; and
- (g) Any other requirements forth in the application and the allocation plan.

(2) Limited exceptions to the underwriting criteria may be granted for good cause shown and supported by sufficient evidence. It is the discretion of the director to review and grant underwriting exceptions.

(3) Applications that do not meet the program underwriting requirements and are not granted a limited exception shall not be approved.

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175-12-04 Selection of approved applications

(A) An application will be rated and considered by the director according to detailed scoring criteria published in the plan and program policies adopted pursuant to section 175.17 of the Revised Code.

(B) Applications that do not meet the requirements of section 175.17 of the Revised Code, Chapter 175-12 of the Administrative Code, and the plan will not be approved by the director, unless a rule or plan waiver has been granted.

(C) If at any time following submission and approval of an application, but prior to project completion, there are changes to the fee or leasehold interest in the project site or in the composition of the development team, the project development owner or application designee must notify the Ohio housing finance agency in writing within fourteen days of the change. If such changes are made prior to final project approval and materially impact the feasibility of the project, at the discretion of the director, the project may be removed from consideration.

(D) The director shall notify each project development owner and designee if applicable in writing of the status of its application upon completion of the relevant application period.

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175-01-05 Credit certificate and market appraisal

(A) Within thirty calendar days of construction completion, the project development owner must notify the director in a format acceptable to the director as established in the program policies, that the project is complete in accordance with the application. The project development owner must include a final development cost certification certified by a certified public accountant for approval and a post-construction as-is appraisal of the market value of each home in the finished project . Such appraisals must comply with the Uniform Standards of Professional Appraisal Practice. A post-construction as-is appraisal shall be conducted by the original appraiser or original appraiser's firm, unless a waiver is granted by staff for good cause, and in a form reasonably acceptable to Ohio housing finance agency. Ohio housing finance agency shall review and confirm the appraisal and may obtain an independent appraisal at the agency's discretion. If the independent appraisal obtained by the Ohio housing finance agency differs substantially from the original submitted appraisal, the tax credit for the dwelling will be adjusted as necessary.

(B) The director may issue a credit certificate to the project development owner of an approved project that the following has occurred:

- (1) sufficient evidence contained in the cost certificate in a form as proscribed by the Ohio housing finance agency;
- (2) sufficient appraisal is received by the Ohio housing finance agency and accepted as final; and,
- (3) Any additional information as may be required by the program plan and policies.

(C) The director shall also certify a copy of each credit certificate to the tax commissioner and the superintendent of insurance.

(D) The credit certificate issued by the director shall include the annual credit amount, the years that comprise the credit period, the name, address, and the taxpayer identification number of the project development owner, the project development owner's designated reporter, and all members of the project development team along with the date the certificate is issued, a unique identifying number, and any other

information required by the tax commissioner and superintendent of insurance.

(E) Pursuant to division (H) of section 175.17 of the Revised Code, the designated reporter shall file with the Ohio housing finance agency no later than January thirty-first of each year a report in a form prescribed by the director with the information required for a credit to be claimed, including any changes to the information previously set forth in this report.

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175-12-06 Monitoring, reporting, and recapture.

(A) (1) The Ohio housing finance agency may, upon reasonable notice to the project development owner or other designated development team representative, conduct a site visit to the project to inspect and evaluate construction or rehabilitation.

(2) The development team must submit quarterly construction monitoring reports which detail the construction progress and a manner and form as prescribed in the program plan and polices. A development team must provide the director sufficient evidence of reviewable progress of construction in accordance with the program plan and policies. Such quarterly construction monitoring reports shall include any inspection reports conducted by local building inspectors.

(3) Quarterly construction monitoring reports begin the first quarter following submission of the development update submission. Submission dates are first day of January, April, July, and October.

(B) During the affordability period, the director may, upon reasonable notice, request a status report, in a format established by the director, from the applicant consisting of information and updates relevant to the status of the project.

(C) The project development owner or a designated member of the development team shall provide the following to the director during the affordability period:

- (1) An annual project development owner certification on a form and in a manner as prescribed by the director; and,
- (2) A notice of material change in affordability as a result of certain events impacting the project's status as a qualified project and/or the homeowner's status as a qualified buyer, including sale of the single-family dwelling, renting the single-family dwelling, and homeowner abandonment, default, foreclosure. Notices of material change in affordability shall be reported within seven days of a change in affordability.

(D) (1) The director may disallow, recapture, or recapture any unissued portion of a credit if the project development owner or the project

development owner's qualified project does not or ceases to qualify for the credit. The Ohio housing finance agency may also enforce the terms of the restrictive covenant with a qualified buyer in the event the qualified buyer breaches those terms by selling to a non-qualified buyer or using the single-family dwelling as a rental unit during the affordability period.

- (2) The credit may be disallowed in part or in whole.

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